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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SHARON DE EDWARDS, M.D.

Plaintiff,

v.

INTERNAL REVENUE SERVICE,
UNITED STATES GOVERNMENT
DEPARTMENT OF THE TREASURY,
KATHY JAKABCIN, Revenue Officer,
and Does I through 50, Inclusive.

Defendants,

Case No.:

COMPLAINT FOR REFUND OF TAXES,
PENALTIES, AND INTEREST.
REQUEST FOR AN ACCOUNTING AND
FOR ATTORNEY FEES

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff, is a sole medical practitioner, doing business as a medical corporation, organized under the laws of the state of California.

2. Defendant, Internal Revenue Service ("IRS") is an agent of the Federal Government of the United States.

3. Defendant, United States Government Department of the Treasury, is a department of the Federal Government of the United States.

4. Defendant, Kathy Jakabcin, is a Revenue Agent of the IRS.

5. Plaintiff brings this action after defendants refused to refund Plaintiff on the

1 overpayment of employers' 941 taxes for the period 3/31/1991 through 3/31/2007, and 940 taxes
2 for the period 12/31/1991 through 12/31/2006. Per stipulation, this Court ordered the previous
3 complaint on this matter dismissed without prejudice, to refile on or before July 13, 2007.

4 6. The claims asserted by Plaintiff arise under Title 42 USC 1981, with this
5 Court having subject matter jurisdiction pursuant to 28 USC 1331, 1343.

6 **STATEMENT OF FACTS**

7 7. Since 1994 to present, defendants, and each of them, have levied Plaintiff's
8 accounts receivable for \$331,246.10, for 940 and 941 taxes and penalties, allegedly owed
9 from March 31, 1991 to present. In so doing, defendants have received overpayment of
10 approximately \$168,960.00 via levies.

11 8. Plaintiff's is a U.S. Citizen of African/Latin ancestry, who organized her business
12 as a corporation, on January 29, 1996. In the ten years since reorganization, and the five years
13 prior, Plaintiff 941 and 940 taxes due and payable totaled approximately \$194,000.00

14 9. Notwithstanding the overpayment, defendant and each of them, have continued to
15 assess levies and liens against Plaintiff, trying to shut Plaintiff's business down and threatening
16 to sell her home.

17 10. The conduct of defendant Kathy Jakabcin, in particular was, and continues to be
18 malicious, egregious, intentional, arbitrary and capricious, and without substantial justification,
19 with this defendant acting under color of law to deprive Plaintiff of her property and to suffocate
20 Plaintiff's constitutional due process rights.

21 WHEREFORE, Plaintiff prays for Judgment against defendants, and each of them, as
22 hereinafter set forth.

23 **COUNT I**
24 **DEMAND FOR REFUND**

25 Plaintiff repeats and realleges Paragraphs 1-10 inclusive, in their entirety as if
26 fully stated herein.

27 11. Defendants have wrongfully levied Plaintiff's account receivable in excess of

1 approximately \$168,960.00 and have failed to refund Plaintiff the excess funds that were
2 obtained through levies, ignoring Plaintiff request for a refund.

3 12. In assessing and collecting levies against Plaintiff's account receivables for
4 services Plaintiff provided to health plan beneficiaries, defendant failed and then refused to
5 provide Plaintiff with an accounting of the funds received, as a consequence, Plaintiff, at her own
6 costs and expense, was force to obtain canceled checks and Explanation of Benefits vouchers on
7 each payments that defendants collected from the health plans, which Plaintiff must account for
8 as earned income. Without an accounting for said income, Plaintiff was unable to prepare and file
9 her 1040 taxes for years 2004, 2005 and 2006.

10 13. As a result of defendants unlawful conduct, Plaintiff has suffered severe
11 distress, and tremendous financial losses and economic hardship, inclusive of the filing of
12 bankruptcies, loss of business property, the potential loss of her home, and damage to her
13 business good will and business reputation.

14 WHEREFORE, Plaintiff prays for Judgment against defendants, and each of them, as
15 hereinafter set forth.

16 COUNT II
17 VIOLATION OF 42 USC § 1981

18 Plaintiff repeats and realleges Paragraphs 1-13 inclusive, in their entirety as if
19 fully stated herein.

20 14. As set forth heretofore, defendant Kathy Jakabcin discriminated against Plaintiff,
21 by treating her differently based on ancestry and race in the management, collection and
22 accounting of levied funds in violation of 42 U.S.C. section 1981.

23 15. Defendant's actions were and are intentional, arbitrary and capricious,
24 and without justification.

25 16. As a result of defendants unlawful conduct, Plaintiff has suffered severe
26 emotional distress, past, present and tremendous financial losses and economic hardship,
27 inclusive of the filing of bankruptcies, loss of business property, the potential loss of her home,

1 and damage to her business good will and business reputation.

2 17. As a further proximate result of defendants' outrageous, malicious, wicked,
3 wanton and reckless conduct, Plaintiff suffered and continues to suffer humiliation, distress, and
4 mental and physical pain and anguish, all to her damage in a sum according to proof.

5 18. As an additional further result of defendants' conduct, Plaintiff, at her own costs
6 and expense, was force to obtain canceled checks and Explanation of Benefits vouchers on each
7 payments that defendants collected from the health plans, which Plaintiff must account for as
8 earned income. Without an accounting for said income, Plaintiff was unable to prepare and file
9 her 1040 taxes for years 2004, 2005 and 2006.

10 19. In light of defendants' outrageous, malicious, wanton, wicked, reckless,
11 willful, knowing conduct, Plaintiff seeks an award of punitive and exemplary damages in an
12 amount according to proof.

13 WHEREFORE, Plaintiff prays for Judgment against defendants, and each of them, as
14 hereinafter set forth.

15 **C. REQUEST FOR JURY TRIAL**

16 Plaintiff requests a trial by jury.

17 **D. PRAYER FOR ACCOUNTING AND RELIEF**

18 WHEREFORE, Plaintiff requests relief as follows:

- 19 1. For special damages according to proof;
20 2. For general damages to compensate plaintiff for discrimination, distress, pain
21 and suffering, and loss of enjoyment of life, in the amount according to proof;
22 3. For an accounting of all funds collected from the health plans by defendants;
23 4. For punitive damages;
24 5. For prejudgment interest on all damages awarded according to statute;
25 6. For reasonable attorney fees according to statute;
26 7. For costs of suit incurred; and
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1 8. For such other and further relief as the Court may deem just and proper.
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4 Dated: June 12, 2007

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F. ANTHONY EDWARDS, ESQ.
Attorney for Plaintiff